THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 19625 of 2006

DATED: 08-02-2007

Between:

Daka Krishna Reddy and others

...Petitioners.

and

The Joint Collector & Project Administrator, R.&R., Gundlakamma Project, Ongole and others.

...Respondents.

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION No. 19625 of 2006

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ORDER:

The petitioners' land in an extent of Ac.18.72 cents in Sy.Nos.93 and 95 in Gundlapalli village, Maddipadu mandal, Prakasham District was notified for acquisition on 09.05.2006 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') for the purpose of rehabilitation and resettlement of the oustees of Garlapadu village, Maddipadu Mandal, which was subjected to submergence under the Gundlakamma Reservoir project. Urgency was invoked and enquiry under Section 5-A of the Act was dispensed with. Section 6 declaration was issued on 12.05.2006. Assailing the notification on the ground that urgency was irrationally invoked and the salutary process of enquiry under Section 5-A of the Act was dispensed with, the writ petition is filed.

On 25.09.2006, this court granted stay of all further proceedings including dispossession of the petitioners.

The Special Deputy Collector, Land Acquisition, Kandula Obulareddy Project, Ongole, has filed an affidavit on behalf of the respondents. In Paragraph 4 of this counter-affidavit, it is ritualistically stated that the enquiry under Section 5-A of the Act was dispensed with in view of the urgency. The counter also states that before the stay was granted, proceedings up to the issuance of the notices under Sections 9 and 10 of the Act were proceeded with.

The invocation of urgency, in the facts and circumstances of this case, is irrational. It is not the case of the respondents that the project was conceived and executed overnight. Construction, execution and

completion of a project of this nature is or ought to be product of considerable planning, outlay of funds and time consumed in award of contract and execution. Even at the stage of conception of the project, the features of the project and the submergence that will result as a consequence of the Reservoir are known. Consequently the number of villages affected and the population that needs to be resettled and rehabilitated is also known. Any rational planning exercise would have to reckon the level of displacement and rehabilitation. As a corollary to such planning procedures, the State ought to know the extent of land required for rehabilitation and resettlement. Since the knowledge about the extent of land required for rehabilitation and resettlement of persons affected by an irrigation project is or ought to have been known for at least half a decade, there appears, but, only one conclusion namely that there was adequate and more time for compliance with the opportunity mandated by Section 5-A of the Act. The hurried and reflexive reaction of State authorities to acquire land overnight, riding a coach and four on salutary statutory procedures under Section 5-A of the Act constitutes an irredeemably arbitrary exercise of power which cannot be justified in law.

For the aforesaid reasons, the invocation of urgency in the notification under Section 4 (1) of the Act dated 09.05.2006 is declared irrational and unsustainable. The draft declaration issued under Section 6 of the Act dated 12.05.2006 is quashed insofar as it pertains to the acquisition of an extent of Ac.18.72 cents in Sy.Nos.93 and 95 of Gundlapalli village, Maddipadu Mandal, Prakasam

District. The respondents are directed to issue a notice under Section 5-A of the Act calling upon the petitioners to lodge their objections to the acquisition process. On receipt of the objections of the petitioners, if any, the respondents and, in particular, the competent respondent shall consider the same and pass a reasoned order dealing with the objections. The decision under Section 5-A (2) of the Act shall be communicated to the petitioners by verifiable mode of communication. Till then no further proceedings under the Act shall be taken.

The writ petition is disposed of as above. There shall be no order as to costs.

GODA RAGHURAM, J

8th February, 2007.
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